

### **REMARKS**

Claims 1-18 and 24-30 were pending in the application. The Office Action dated August 15, 2007 ("Office Action") provisionally rejected all of the claims for obviousness-type double patenting based on co-pending U.S. Patent Application Nos. 11/176,681; 11/176,682; and 11/176,685. The Office Action objected to Figure 2b on the grounds that it should be designated as "Prior Art." Claim 9 was rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement, and claims 18 and 24-30 were rejected under 35 U.S.C. § 112, first paragraph, for lack of enablement. The Office Action also rejected claims 3, 29, and 30 under 35 U.S.C. § 112, second paragraph, because certain claim limitations lacked a sufficient antecedent basis. Lastly, claims 1-18 and 24-30 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0138341 to Rodriguez et al. ("Rodriguez").

By the present Response, claims 1, 3, 15, 24, 29, and 30 have been amended, and claim 14 has been cancelled without prejudice or disclaimer. New claim 42 has been introduced for examination on the merits. Claims 1-13, 15-18, 24-30, and 42 are now pending in the present application. Reconsideration of the previously rejected claims and favorable action is requested in light of the above amendments and the following remarks.

#### **Drawing Objection**

The Office Action objected to Figure 2b on the basis that it should be designated as "Prior Art." A corrected drawing has been submitted with this Response, and, therefore, Applicants respectfully request that the objection be withdrawn.

#### **Claim Rejections - 35 U.S.C. § 112, First Paragraph**

The Office Action rejected claim 9 under 35 U.S.C. § 112, first paragraph, on the grounds that the Specification allegedly does not describe what is meant by the claim term "secure messaging services." Applicants respectfully traverse the rejection. Claim 9 states that "the voter registration process element" comprises, among other elements, "secure messaging services." The Specification describes the exchange of secure messages between a citizen and a local election office ("LEO") during the voter registration process:

Communications to LEOs on new registrations and transmittal of eFPCA to LEOs 2306 provides the automatic generation and sending of communications upon the receipt of registration and eFPCA submission. Secure transmission services between UOCAVA citizen, LEO, and central hosting facility 2308 provides the processes to ensure secure communications among authorized users.

(See Specification at ¶ 46.) Therefore, claim 9 satisfies the written description requirement of 35 U.S.C. § 112, first paragraph, and Applicants respectfully request that the rejection be withdrawn.

The Office Action rejected claims 18 and 24-30 under 35 U.S.C. § 112, first paragraph, for lack of enablement. Specifically, the Office Action cites *In re Mayhew*, 527 F.2d 1229 (C.C.P.A. 1976), as authority for the rejection. Applicants respectfully traverse the rejection. As the Office Action points out, *In re Mayhew* stands for the proposition that a claim is not enabled when it fails to recite an element that, according to the specification, is essential to the practice of the invention. 527 F.2d at 1232-33. The Office Action asserts that a “roaming digital signature” is essential to practicing the present invention because it remedies a deficiency inherent in the prior art, and that therefore claims 18 and 24-30 are not enabled because they do not recite a “roaming digital signature.” Applicants do not concede that a “roaming digital signature” is required to practice the present invention. But, that is not the basis upon which Applicants traverse the rejection. Applicants submit that the rejection is misplaced because all of the rejected claims do, in fact, recite a roaming digital signature. Independent claim 18 recites “assigning a roaming digital certificate.” The original version of claim 24 recited a “digital signature,” and for purposes of consistency, it has been currently amended to recite a “roaming digital signature.” Furthermore, dependent claims 25-30 include the elements of claim 24 by incorporation. Therefore, Applicants respectfully request that the rejection be withdrawn.

#### Claim Rejections - 35 U.S.C. § 112, Second Paragraph

The Office Action rejected claims 3, 29, and 30 under 35 U.S.C. § 112, second paragraph, because certain claim limitations lacked a sufficient antecedent basis. Applicants respectfully submit that the rejections have been fully addressed by the claim amendments above.

Claim Rejections - 35 U.S.C. § 102(b)

The Office Action rejected claims 1-18 and 24-30 under 35 U.S.C. § 102(b) as allegedly being anticipated by Rodriguez.

Independent claim 18 recites “a secure electronic registration and voting system” comprising, among other elements, “a central hosting facility.” The central hosting facility also comprises a number of elements, one of which is “a ballot tabulation and reconciliation subsystem and associated processes for reconciling encrypted ballots, wherein ballot tabulation includes providing a local election office with a token and a tabulation computer and requiring one election official to login to the tabulation computer and a second election official to login to the central hosting facility.” As explained in the Specification, the dual login requirement is a security measure designed to ensure that the ballot tabulation is fair and accurate. (See Specification at ¶ 75.) Rodriguez discloses a voting system “in which voter registration and voting are conducted electronically over a network.” (See Rodriguez at ¶ 2.) Rodriguez also discloses a method for tabulating electronic ballots. (See Rodriguez at ¶¶ 55-58.) Rodriguez does not, however, teach or suggest the dual login feature that is recited by claim 18 of the present application. Instead, Rodriguez explains that, “[t]o process a voted electronic ballot, TR personnel 114 can access the computer database residing on the TR server 110 through, for example, a TR admin workstation.” (See Rodriguez at ¶ 56.) The dual login feature as recited in Applicant’s present claims provides a significant added level of additional security to the system that renders it a significant improvement over the system disclosed by Rodriguez. Rodriguez does not mention that a dual login is required to access the ballots, nor is there any rationale suggesting that such a requirement would be useful. As a result, Applicants respectfully submit that Rodriguez does not teach or suggest all the features of claim 18.

Independent claims 1 and 42 also recite similar features to those described above, and are thus distinguishable over Rodriguez for at least the same reasons as claim 18. As a result, dependent claims 2-13, 16-17, and 24-30 are also distinguishable over Rodriguez.

For the foregoing reasons, Applicants respectfully submit that all of the currently pending claims are allowable over Rodriguez. Favorable reconsideration of the claims is requested, including removal of the rejections under 35 U.S.C. § 102(b).

Claim Rejections – Provisional Obviousness-Type Double Patenting

The Office Action provisionally rejected all of the claims in light of co-pending and co-owned U.S. Patent Application Nos. 11/176,681; 11/176,682; and 11/176,685, under the judicially-created doctrine of obviousness-type double patenting. This rejection is a provisional rejection because no claims have been allowed in any of the co-pending applications.

Applicants respectfully traverse the rejection. Applicants note that an obviousness-type double patenting rejection is based upon the claims, not the specification, of the patent applications. *See* MPEP 804. The claims of U.S. Patent Application Nos. 11/176,681; 11/176,682; and 11/176,685 recite features that are not claimed in the present application. For example, Claim 1 of Application No. 11/176,681 recites “an automated identity authentication and voting system comprising: a computer for allowing a user to access an authentication system and a central hosting facility through a network.” Thus, in claim 1 of Application No. 11/176,681, the authentication system is separate from the central hosting facility. In contrast, claim 18 of the present application recites “an identification and authentication subsystem” that is part of the application processing segment of the central hosting facility. Claim 1 of Application No. 11/176,682 recites “a dynamic electronic voting auditing system” that comprises “a computer for accessing the central hosting facility through the network, and an application residing on said computing device, wherein said computer application presents an electronic ballot to a test user, wherein said computer application forwards test voting data to the central hosting facility.” None of the claims in the present application relate to voting auditing, nor do they claim a computer application for collecting test voting data. Similarly, claim 1 of Application No. 11/176,685 recites a computing device application that is used to collect both voting data and ballot data. None of the claims in the present application recite such a computing device application. For those reasons, an obviousness-type double patenting rejection is inappropriate, and Applicants respectfully request removal of the rejection.

Additionally, Applicants note that, because this is a provisional rejection, Applicants are not required to overcome this rejection (such as by filing a terminal disclaimer) in order to obtain allowance. *See* MPEP § 804. However, in the event that one of above-referenced application issues as a patent in advance of the present application, Applicants specifically reserve the right to file a terminal disclaimer to overcome any non-provisional obviousness-type double patenting

rejections that may arise or to submit further arguments with regard to the then-present claims. Therefore, Applicants respectfully request that the Examiner hold this rejection in abeyance and proceed with the substantive examination of the present application based upon the prior art. In the event that all prior art rejections are overcome, a Notice of Allowance should be immediately issued.

**CONCLUSION**

For all of the foregoing reasons, it is respectfully requested that the rejections set forth in the Office Action be withdrawn. All pending claims are allowable over the art of record, and the application is submitted to be in condition for allowance. Favorable reconsideration and a timely Notice of Allowance are respectfully requested.


In the event that an appropriate fee amount is not enclosed by check for any fees due in connection with the filing of this Response, please charge any deficiencies or credit any overpayments to Deposit Account No. 50-1349.

Finally, in the event that the Examiner considers certain currently rejected claims to be allowable over the prior art and feels that informal discussion would be helpful in progressing the current application toward allowance, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

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**HOGAN & HARTSON LLP**  
555 13<sup>th</sup> Street, N.W.  
Washington, D.C. 20004  
Telephone: 202-637-5600  
Facsimile: 202-637-5910  
email: [cjcrowson@hhlaw.com](mailto:cjcrowson@hhlaw.com)  
**Customer No.: 30398**

By:   
Celine Jimenez Crowson  
Registration No. 40,357

Kevin G. Shaw  
Registration No. 43,110

**Amendments to the Drawings:**

Please replace Figure 2b with the attached replacement page. The revised drawing incorporates the “prior art” designation as requested by the Examiner. All changes are supported by the original specification. No new matter has been added.

A replacement sheet and a red-line mark-up sheet are attached at the end of this paper.

Attachments: Replacement Sheet (FIG. 2b)  
Red-line Mark-up Sheet (FIG. 2b)

ANNOTATED SHEET

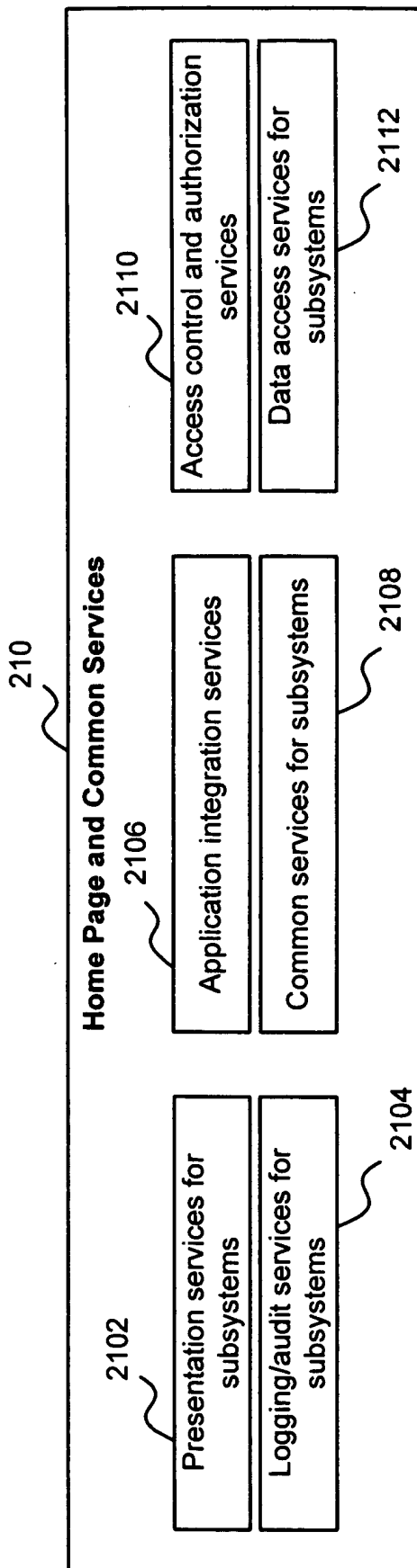


Fig. 2b (prior art)